## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

AUTISM SERVICES, INC.

Employer

and Case 03-RC-127544

AUTISM SERVICES, INC., EDUCATION ASSOCIATION, NYSUT, AFT, AFL-CIO

Petitioner

## **ORDER**

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.<sup>1</sup>

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

Dated, Washington, D.C., July 9, 2014.

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<sup>&</sup>lt;sup>1</sup> Member Miscimarra joins his colleagues in denying review. He disagrees with the Regional Director's finding that the teachers are not held accountable for the shortcomings of their classroom staff for the purposes of establishing responsible direction. The Employer cites a Performance Improvement Plan and a follow-up report faulting a teacher because her "staff were minimally engaging the students during instructional times" and stating that "[m]ore supervisory delegation is needed on your part to ensure that staff are actively prompting students to engage in tasks throughout the entire day." She was also faulted for failing to implement a plan to correct these shortcomings. *Oakwood Healthcare, Inc.*, 348 NLRB 686, 692 (2006); *Community Education Centers, Inc.*, 360 NLRB No. 17, slip op at 2 (2014) (Member Miscimarra, concurring in part and dissenting in part). Nevertheless, he agrees that the Employer failed to adduce evidence that the teachers directed staff using independent judgment.